

Priority Document

Applicants thank the Examiner for noting that GB9916703.3, filed August 24, 2001, provides adequate written support for the claims 17-20, 22-27, and 29-39.

Applicants submit that support for claim 28 (for the limitation of "coupled protein") can be found in the priority application (GB 9916703.3). For example, support can be found at page 8, paragraph 3 which describes an M3 protein coupled to a histidine tag. Thus, Applicants submit that the priority document also provides adequate written support for claim 28.

Applicants note that the term "coupled protein" is support in the present specification, for example at page 6, paragraph 2.

Objections Under 37 C.F.R. § 1.75(c)

Applicants respectfully submit that the dependency of the claims 24-26 and 28 from claim 17 is proper. Claim 17 recites the use of an M3 protein of MHV68. This M3 protein can be coupled to another protein, coupled to a label, or it can be uncoupled. Thus, the addition of a label or coupling product does further limit the subject matter of claim 17. Thus, claim 17 is directed to the use of M3 protein alone or M3 protein and another substance. Claim 24 further limits the subject matter of claim 17, it requires that the M3 protein additionally comprises a label; use of an unlabeled M3 (e.g. M3 alone) in the method of claim 24 would not satisfy all the requirements of this claim. Claim 28 also further limits the subject matter of claim 17 as it recites that the M3 protein is a coupled protein. Thus, claims 24 and 28 properly depend from claim 17.

Similarly, claim 17 recites binding of M3 protein to a chemokine. This chemokine can be either labeled or unlabeled; claim 17 is not limited to either a labeled or unlabeled chemokine. Claim 25 is further limits the subject matter of claim 17, as claim 25 specifies that the chemokine is labeled. Thus, claim 25 properly depends from claim 17.

Similarly, claim 17 recites that binding to a receptor is blocked. The receptor can either be a labeled receptor or an unlabeled receptor. Claim 26 further limits the subject matter of claim 17 as it recites that the receptor is a unlabeled receptor. Thus, claim 26 properly depends from claim 26.

Applicants respectfully request that the objection to claims 24-26 and 28 as improperly depending from claim 17 be withdrawn.

Applicants thank the Examiner for the suggestion of restricting the use of a label to an *in vitro* use. However, Applicants note that labeled products often have *in vivo* uses, for example, radioactively labeled products are often used *in vivo*.

Rejection Under 37 C.F.R. § 112, first paragraph

Claims 17-20 and 22-39 were rejected as allegedly the specification, while enabling for the use of the M3 protein of MHV68, is not enabling for M3 protein or functional homologues thereof. Applicants respectfully disagree with this assertion.

Applicants respectfully submit that the specification is enabling for "functional homologues" as the application contains guidance with respect to binding assays which would enable one of skill in the art to readily identify the claimed functional homologues. For example, fusion proteins, derivatives, and fragments of M3 are described in the specification on page 6, line 28, to page 7, line 4. Guidance is also provided in the specification on page 18, line 29 to page 19, line 14. It should also be noted that van Berkel et al. (*J. Virol.* 74:6741-6747, 2000, previously cited) discuss MHV68 homologues (see page 6746, last paragraph of the discussion).

Furthermore, Applicants submit that there is indeed guidance in the specification about how to make such homologues. For example, in the specification at page 1, lines 20-21 the application describes homologues as including derivatives and fragments; at page 5, lines 1-8 there is guidance regarding identity of derivatives, and also which amino acid motifs can be changed or deleted; and at page 1, lines 28-34 to page 2, lines 1-2 there is further guidance about how to obtain M3 homologues. Hence, applicants respectfully submit one of skill in the art would readily be able to make and use suitable homologues of M3 using the guidance provided in the specification.

CONCLUSION


It is respectfully submitted that the present claims are in condition for allowance. If any minor issues remain to be addressed before a Notice of Allowance is issued, the Examiner is

respectfully requested to call the undersigned patent attorney at the telephone number listed below.

Respectfully submitted,

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